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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 RIGHTHAVEN LLC, a Nevada limited-
liability company,

12
13 Plaintiff,

14 v.

15 AR15.COM, LLC, a Delaware domestic
16 limited-liability company; JUAN AVILA, an
individual; and EDWARD AVILA, an
17 individual,

18 Defendants.
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Case No.: 2:10-cv-01671

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

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21 Righthaven LLC (“Righthaven”) complains as follows against AR15.Com, LLC
22 (“AR15”), Juan Avila, and Edward Avila (collectively with AR15 and Juan Avila known herein
23 as the “Defendants”) on information and belief:
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25 **NATURE OF ACTION**

26 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.
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PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. AR15 is, and has been at all times relevant to this lawsuit, a Delaware domestic limited-liability company.

5. AR15 is, and has been at all times relevant to this lawsuit, identified by the current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant, administrative contact, and technical contact for the Internet domain found at <ar15.com> (the “Domain”).

6. Juan Avila is, and has been at all times relevant to this lawsuit, identified by GoDaddy as an administrative contact and technical contact for the Domain.

7. Juan Avila is, and has been at all times relevant to this lawsuit, identified by the content accessible through the Domain (said content accessible through the Domain known herein as the “Website”) as an “Owner & Administrator” of the Website.

8. Edward Avila is, and has been at all times relevant to this lawsuit, identified by the Website as an “Owner & Administrator” of the Website.

9. AR15 is, and has been at all times relevant to this lawsuit, the self-proclaimed owner of the copyright(s) in the work(s) posted on the Website, as evidenced by a copyright notice displayed on the Website: “Copyright© 1996-2009 AR15.Com LLC. All Rights Reserved.”

JURISDICTION

10. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

11. Righthaven is the owner of the copyright in the literary work entitled: “Principal and another school employee face drug charges” (the “Work”), attached hereto as Exhibit 1.

1 12. At all times relevant to this lawsuit, the Work has depicted and depicts the
2 original source publication as the Las Vegas *Review-Journal*.

3 13. The Defendants willfully copied, on an unauthorized basis, the Work from a
4 source emanating from Nevada.

5 14. On or about September 3, 2010, the Defendants displayed, and continue to
6 display, an unauthorized copy of the Work (the “Infringement”), attached hereto as Exhibit 2, on
7 the Website.

8 15. At all times relevant to this lawsuit, the Infringement has depicted and depicts the
9 original source publication as the Las Vegas *Review-Journal*.

10 16. The subject matter, at least in part, of the Work and the Infringement, is the arrest
11 of two Clark County, Nevada School District employees for drug possession.

12 17. At all times relevant to this lawsuit, the Defendants knew that the Work was
13 originally published in the Las Vegas *Review-Journal*.

14 18. At all times relevant to this lawsuit, the Defendants knew that the Infringement
15 was and is of specific interest to Nevada residents.

16 19. The Defendants’ display of the Infringement was and is purposefully directed at
17 Nevada residents.

18 20. The Defendants knew, or reasonably should have known, that websites, such as
19 the Website, are and were at all times relevant to this lawsuit, the habitual subject of postings by
20 others of copyright-infringing content.

21 21. At all times relevant to this lawsuit, the Defendants did not institute any proactive
22 policy of precluding, or attempting to preclude, the postings by others of copyright-infringing
23 content on the Website.

24 22. At all times relevant to this lawsuit, the Defendants did not institute any proactive
25 policy of monitoring, or attempting to monitor, the postings by others of copyright-infringing
26 content on the Website.
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1 23. At all times relevant to this lawsuit, the Defendants did not institute any proactive
2 policy of deleting, or attempting to delete, the postings by others of copyright-infringing content
3 on the Website.

4 24. At all times relevant to this lawsuit, the Defendants' failure to institute any
5 proactive policies intended to address the postings by others of copyright-infringing content on
6 the Website constituted and constitutes the Defendants' willful blindness to copyright
7 infringements occurring on the Website.

8 25. The Defendants' contacts with Nevada are continuous and systematic because the
9 Defendants published and publish, on the Website, information of specific interest to Nevada
10 residents about "Where to Rent Machine Guns in Vegas," evidence of which is attached hereto
11 as Exhibit 3, and such contacts have been in existence at least in excess of one year.

12 26. The Defendants' contacts with Nevada are continuous and systematic because the
13 Defendants published and publish, on the Website, information of specific interest to Nevada
14 residents about "Vegas & Henderson Area Gunstores," evidence of which is attached hereto as
15 Exhibit 3, and such contacts have been in existence at least in excess of one year.

16 27. The Defendants' contacts with Nevada are continuous and systematic because the
17 Defendants published and publish, on the Website, information of specific interest to Nevada
18 residents about Nevada-based "Outdoor Shooting Ranges," evidence of which is attached hereto
19 as Exhibit 3, and such contacts have been in existence at least in excess of one year.

20 28. The Defendants' contacts with Nevada are continuous and systematic because the
21 Defendants posted and post, on the Website, hyperlinks to information of specific interest to
22 Nevada residents, including, without limitation: "Clark County Illegal shooting area map," "NV
23 Sex Offenders Watchlist," "NV NRS on Weapons and CCW Laws," and the "Nevada State
24 Constitution," evidence of which is attached hereto as Exhibit 3.

25 29. The Defendants' contacts with Nevada are continuous and systematic because the
26 Defendants published and publish, on the Website, information of specific interest to Nevada
27 residents about Nevada-based gun shows, evidence of which is attached hereto as Exhibit 4, and
28 such contacts have been in existence at least in excess of one year.

1 30. The Defendants' contacts with Nevada are continuous and systematic because the
2 Defendants published and publish, on the Website, information of specific interest to Nevada
3 residents about handgun registration in Clark County, Nevada, evidence of which is attached
4 hereto as Exhibit 5, and such contacts have been in existence at least in excess of one year.

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7 **VENUE**

8 31. The United States District Court for the District of Nevada is an appropriate
9 venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to
10 the claim for relief are situated in Nevada.

11 32. The United States District Court for the District of Nevada is an appropriate
12 venue, pursuant to 28 U.S.C. § 1391(c), because AR15 is subject to personal jurisdiction in
13 Nevada.

14 33. The United States District Court for the District of Nevada is an appropriate
15 venue, pursuant to 28 U.S.C. § 1400 (a), because the Defendants are subject to personal
16 jurisdiction in Nevada.

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19 **FACTS**

20 34. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
21 102(a)(1).

22 35. Righthaven is the owner of the copyright in and to the Work.

23 36. The Work was originally published on or about September 3, 2010.

24 37. On September 22, 2010, the United States Copyright Office (the "USCO")
25 received Righthaven's official submittal for the registration to the Work, including the
26 application, the deposit copy, and the registration fee (the "Complete Application"), Service
27 Request No. 1-491084321, and attached hereto as Exhibit 6 is the official USCO application
28 submittal for the Work depicting the occurrence of the Complete Application.

1 38. On or about September 3, 2010, the Defendants displayed, and continue to
2 display, the Infringement on the Website.

3 39. The Defendants did not seek permission, in any manner, to reproduce, display, or
4 otherwise exploit the Work.

5 40. The Defendants were not granted permission, in any manner, to reproduce,
6 display, or otherwise exploit the Work.

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9 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

10 41. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
11 40 above.

12 42. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
13 U.S.C. § 106(1).

14 43. Righthaven holds the exclusive right to prepare derivative works based upon the
15 Work, pursuant to 17 U.S.C. § 106(2).

16 44. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
17 17 U.S.C. § 106(3).

18 45. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
19 U.S.C. § 106(5).

20 46. The Defendants reproduced the Work in derogation of Righthaven's exclusive
21 rights under 17 U.S.C. § 106(1).

22 47. The Defendants created an unauthorized derivative of the Work in derogation of
23 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

24 48. The Defendants distributed, and continue to distribute, an unauthorized
25 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
26 17 U.S.C. § 106(3).

49. The Defendants publicly displayed, and continue to publicly display, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(5).

50. AR15 has willfully engaged in the copyright infringement of the Work.

51. Juan Avila has willfully engaged in the copyright infringement of the Work.

52. Edward Avila has willfully engaged in the copyright infringement of the Work.

53. The Defendants' acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

54. Unless the Defendants are preliminarily and permanently enjoined from further infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus entitled to preliminary and permanent injunctive relief against further infringement by the Defendants of the Work, pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendants, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;

2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:

a. All evidence and documentation relating in any way to the Defendants' use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;

b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Defendants have communicated regarding the Defendants' use of the Work; and

c. All financial evidence and documentation relating to the Defendants' use of the Work;

3. Direct GoDaddy, and any successor domain name registrar for the Domain, to lock the Domain and transfer control of the Domain to Righthaven;

4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. § 504(c);

5. Award Righthaven costs, disbursements, and attorneys' fees incurred by Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

6. Award Righthaven pre- and post-judgment interest in accordance with applicable law; and

7. Grant Righthaven such other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated this twenty-seventh day of September, 2010.

RIGHTHAVEN LLC

By: /s/ J. Charles Coons
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